

## **REMARKS**

No claims have been added, amended or cancelled in this Reply. Claims 40-54 are pending in this application.

Rejections of the independent claims are discussed below. Dependent claims are not specifically discussed and are patentable at least by virtue of the fact that they include all of the limitations of their respective independent claims, including the limitations that are not taught by the cited references, as discussed below.

### **Rejections under 35 U.S.C. § 102(b)**

Claims 40-45 and 52 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,983,183 to Tabet et al. ("Tabet"). Applicants respectfully traverse.

### **Claims 40 and 52**

The Examiner has rejected Independent claim 40 with only the following information:

With respect to claims 40 – 45 and 52 note the Abstract, Col. 1, lines 25 – 56,  
Col. 3, lines 21 – 33 and Col. 5, lines 20 – 45.

Office Action dated 02 December 2008 at pg 2.

A prior art reference must teach or suggest every element of a rejected claim to form the basis of a prima facie case of anticipation under 35 U.S. C. § 102(b). Here the Examiner has not pointed out how the cited sections of Tabet teach or suggest each element of the rejected claims, but rather has simply pointed to sections of Tabet with no further comment. In a complex art the Examiner has a duty to explain how the prior art anticipates the rejected claims and simply pointing to all of the figures and broad sections of the cited reference with no additional

discussion does not meet this duty. Applicants respectfully request the Examiner to provide an adequate explanation of his allegations of anticipation should the Examiner maintain this rejection.

Tabet is directed to an automatic gain control (AGC) algorithm that “operates to bring the power level of the audio signal of every active channel to within a fixed range. The AGC algorithm allows the use of non-calibrated microphones, corrects for long distance signal attenuation, and provides improved audio level reference for audio switching and audio level video switching. The AGC algorithm is structured in **two steps: calibration and gain control**. The calibration includes defining a noise threshold. Gain control includes first calculating a dynamic speech detection level ... when the audio signal is determined to be of speech, calculating a smoothed power estimation of the speech signal, and appropriately updating the gain on each channel so that the power level of the speech signal is moved toward or confined within the fixed experimental range.” Tabet at Abstract (emphasis added).

Simply put, Tabet discloses determining if speech is present and if speech is present applying the AGC algorithm to the signal. However, “[i]f, at **224**, it is determined that the audio signal power is less than the SDL, the audio signal is considered line noise or background noise, and the gain on the audio signal is **not changed** at **226** from its current level.” Tabet at Col. 5 lns. 41-44 (emphasis added).

In order to anticipate a claim the cited reference must disclose each and every limitation of the claim. MPEP § 2131. Tabet cannot anticipate claim 40 at least because there is no disclosure of the following two limitations of claim 41:

- “including the received audio signal in a conference sum audio signal broadcast to at least some participants of the conference depending the result of the comparison”
- “determining a dynamic threshold value ... if and only if ... noise was present”

Tabet does not disclose that received audio signals are optionally included or excluded from the conference audio based on a comparison. Tabet *always includes* the signal and simply does not apply the “AGC” algorithm if the signal is not speech.

Furthermore, Tabet does not disclose determining a dynamic threshold value for a port if and only if noise is present at the port. In contrast Tabet teaches away from this element because Tabet teaches using a dynamic threshold level with respect to audio received from every participant, whether or not noise is detected from that participant. Stated another way, Tabet only uses a noise threshold as part of a determination of speech being present and does not use the noise threshold as a means to optionally include “the received audio signal in a conference sum audio signal broadcast” as expressly recited in independent claim 40.

For at least these reasons Tabet cannot anticipate independent claim 40. Independent claim 52 incorporates substantially the same limitations of claim 40 and therefore Tabet cannot anticipate independent claim 52 for at least the same reasons. Claims 41-45 depend from and incorporate all the limitations of independent claim 40 and are necessarily not anticipated by the cited art for at least the same reasons as independent claim 40. Applicant respectfully requests the Examiner withdraw this rejection.

**Rejections under 35 U.S.C. § 103(a)**

Claims 46-51 and 53-54 were rejected under 35 U.S.C. § 102(a) as allegedly being obvious over Tabet in view of U.S. Patent No. 5,841,763 to Leondires et al. ("Leondires"). Applicants respectfully traverse.

**Claims 46 and 53**

The Examiner rejects claims 46-51 and 53-54 with only the following information:

With respect to claims 46 – 51 and 53 - 54 Tabet et al. teach the claimed system, software and method except for the DTMF aspect of the present application. However, Leondires et al. teach such (note DTMF detection 270).

Office Action dated 2 December 2008 at pg. 2.

Leondires is directed to "[a] processor unit for a multipoint audio-video conferencing system." Leondires at Abstract. The processor board has an element named DTMF detection 270 in Fig. 7. The Examiner has provided no citation to the text of the reference and after review it appears that the only mention of DTMF detection disclosed by Leondires is that the processor unit includes a function which performs "DTMF detection (DTMF), which detects when a digital telephone button has been depressed." Leondires at Col. 14 lns. 13-14. There does not appear to be any disclosure related to what the processor unit does with this DTMF signal.

The Examiner admits that Tabet does not teach the DTMF aspect of the present application and asserts that Leondires discloses this missing limitation. Applicant respectfully disagrees. Neither Tabet nor Leondires disclose "if a DTMF tone is present in the audio signal, omitting the received audio signal from a conference sum audio signal broadcast" as explicitly recited in claim 46.

For at least these reasons Tabet and Leondires either alone or in combination fail to teach each recited element of the claimed invention and, as a consequence, the Examiner has failed to make a legitimate *prima facie* case of obviousness. Independent claim 53 incorporates substantially the same limitations of claim 46 and is therefore patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections and pass independent claims 46 and 53 to allowance. For at least the same reasons, claim 47 which depends from independent claim 46 is allowable over Tabet and/or Leondires. Such action is respectfully requested.

#### **Claims 48 and 54**

Independent claim 48 recites, among other limitations, “if valid speech is present and if no DTMF tone is present, including the received audio signal in a conference sum audio signal broadcast.”

As discussed above, Tabet does not disclose anything about DTMF tones and Leondires does not disclose anything other than detection of a DTMF signal. Therefore neither Tabet nor Leondires either alone or in combination can render claim 48 obvious.

The Examiner has failed to make a legitimate *prima facie* case of obviousness. Independent claim 54 incorporates substantially the same limitations of claim 48 and is therefore patentable for at least the same reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections and pass independent claims 48 and 54 to allowance. For at least the same reasons, claims 49-51 which depend from independent claim 48 are allowable over Tabet and/or Leondires. Such action is respectfully requested.

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Should the Examiner have any questions or concerns that can be addressed via telephone, the Examiner is requested to contact the undersigned attorney at 832-446-2445.

Respectfully submitted,

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Date

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